



## COMMUNITY DEVELOPMENT DEPARTMENT

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17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236  
Website Address: [www.morgan-hill.ca.gov](http://www.morgan-hill.ca.gov)

### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

JUNE 24, 2003

PRESENT: Acevedo, Escobar, Engles, Lyle, Mueller, Weston

ABSENT: Benich

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Acevedo reconvened the meeting at 8:02 p.m., having recessed following the workshop with the City Council.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Acevedo opened the public hearing.

While no one was present and indicating a wish to address matters not appearing on the agenda, a letter from Richard Oliver regarding the recent Measure P appeal hearings was noted for the record.

The public hearing was subsequently closed.

#### **MINUTES:**

The minutes of June 10, 2003 and June 17, 2003 will be considered at the next meeting.

#### **CONSENT CALENDAR:**

**1) GPA-02-08:  
MONTEREY-  
PINN BROS.**

A request to change the General Plan Land Use designation on the two westernmost parcels of the project site (APNs 767-23-025, 002), consisting of 6.23 acres, from Multi-Family Medium to Multi-Family Low, to maintain consistency with the proposed General Plan Land Use designation. The Commercial General Plan designation is

## PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 2

proposed to remain the same for the easternmost parcel (APN 767-23-001), consisting of 3.45 acres. The project site consists of three contiguous parcels totaling 9.68 acres located on the west side of Monterey Rd., north of Watsonville Rd. and south of West Edmundson Ave.

**COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE CONSENT CALENDAR, INCLUSIVE OF RESOLUTION NO. 03-41, RECOMMENDING DENIAL OF THE GENERAL PLAN AMENDMENT OF APNs 767-23-025 AND -002, APPROVAL OF THE EASTWARD SHIFT IN THE BOUNDARY BETWEEN THE EXISTING MULTI-FAMILY MEDIUM AND COMMERCIAL GENERAL PLAN DESIGNATIONS FOR THE SEVEN (7) ACRE AREA LOCATED ON THE WEST SIDE OF MONTEREY ROAD, NORTH OF WATSONVILLE ROAD AND SOUTH OF WEST EDMUNDSON AVENUE. THE MOTION WAS PASSED WITH THE FOLLOWING VOTE: AYES: ENGLER, ESCOBAR, LYLE, MUELLER, WESTON; NOES: ACEVEDO (who asked the record show that this vote is consistent with previous votes in the matter); ABSTAIN: NONE; ABSENT: BENICH.**

### NEW BUSINESS:

**2) ZAA-98-20:  
SPRING-  
WESTPOL  
PROPERTIES**

A request to amend the precise development plan for the Spring Manor subdivision located on the south side of Spring Ave., adjacent to the west side of the Mt. Hope Cemetery. The amendment request is to amend the open space easement boundary on lots 1-8, 10-13 & 16-20.

PM Rowe presented the staff report, noting that when the City Council adopted the precise development plan for the 15.28-acre site, it had been pre-zoned as R-1 12,000/RPD. Furthermore, he stated, the precise development plan also included a development line which required all land on slopes in excess of 10 percent to be left as open space. Each of the lots was recorded with the inclusion of the open space easement, prohibiting the encroachment of backyard improvements up the hillside.

This request, PM Rowe explained, is based on the lack of useable outdoor area behind the homes which hampers sales. The applicant, therefore, proposes to amend the limits of the open space area from the 10 percent slope line to the 20 percent slope line.

Staff concerns regarding the application include the potential for

- enormous increase to developable yard areas of some lots
- probable placement/movement of accessory structures, pools and terrace gardens, etc., which would be visible from Spring Ave.

PM Rowe reminded that the increase in density on this property was granted in exchange for the preservation of the hillside area. Continuing, he said that the homes which have been constructed generally are in excess of 3,200 sf, and that was about 200 sf larger than originally presented. However, this size increase caused the original footprints to be affected for yard improvements.

Staff was not prepared to support the request, PM Rowe said, but offered an alternative: Commissioners could consider amending the easement line 20 feet back from the edge of

## PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 3

the current “v” ditch location.

Chair Acevedo asked about the location of the proposed golf course in the area and the boundary closeness to this property. [The golf course would abut this property.]

Commissioner Weston inquired as to the location of the lot lines, and whether the owners are responsible for the maintenance of the lot lines adjacent to the public land? [Yes]

Chair Acevedo opened the public hearing.

Dan Gluhaich, 1500 Sterling Oaks Dr., said he is representing the developer and had urged him to make the application. This developer, he said, was not the original permittee under the Measure P process. Mr. Gluhaich said he has contracted with the present owner to market the homes, and it is near impossible because of the small rear yards. Lot 6 on Glen Canyon has a back door that is only 12-feet from the retaining wall, he said as a way of example. Mr. Gluhaich said that he is asking for the property to be allowed to go to a 20% slope instead of the originally agreed 10%. Furthermore, he said, staff has recommended 20-feet, but he wants 40-feet. [It was clarified that the 20-feet was not a staff recommendation, but a presented alternative.] Mr. Gluhaich continued that the 40-feet would permit buyers to have space for a pool or large play structure to the rear of the house and when they bought this size house, they frequently wanted a pool. He continued that the owners are buying the open space but are permitted no use of it.

Chair Acevedo asked the price range of the houses? [high \$900,000 to \$1,200,000]

“Would the “v” ditch have to be moved if this were granted?” Commissioner Weston inquired. [No]

Commissioner Mueller asked if the design of the retaining walls is OK? [Yes]  
He indicated that he had visited the site and found that the flattest lot is 17, but there is no flat area on lot 19.

Mr. Gluhaich said there is no rear yard in lots 6 – 18 – 19 – 20.

Commissioner Lyle said the “v” ditch makes a nice demarcation line. He also had staff clarify the fencing materials on the lot lines.

Commissioner Escobar asked if the current owners were aware of the issues and restrictions when the property(s) were purchased? [Yes]

Mr. Gluhaich said the “v” ditch came later.

Commissioner Escobar asked if the applicant wants to pick certain lots for adjustment (in the request). Mr. Gluhaich responded that he was asking for 40-feet across the board to be fair to all.

Thomas McDaniel, 16650 Dale Hollow Ct., is the owner of lot 17. He expressed frustration that he ‘can’t put in a tree, nothing beyond the ditch’, and said that the 40-feet requested would be ‘wonderful’. “It would be great to go back to the 20% slope,” he said. “I’d like the ability to do something.”

## PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 4

Stewart Witter, 460 Spring Hill Dr., said he has two concerns: 1) the overall appearance of the hill and 2) the plan set forth several years ago was agreed to. Now the City is being asked to jeopardize the hillside which was to be kept in the natural state. Mr. Witter indicated he doesn't want to detract from the hill.

Commissioner Escobar asked if Mr. Witter's house faces the hill? Mr. Witter responded it did not, but he jogs along the area and views the natural state of the hill. Commissioner Escobar continued by asking what if the easement limitation was extended 10 – 15 – 40-feet? Mr. Witter replied that 40-feet would definitely interfere with the natural state of the hill, and reminded that a plan was agreed upon and the developer should stay with the contract they had with the City.

Mary Paulsen, 375 Spring Ave., said she can view the hillside from her home. "I agree that the plan agreed to should stay in place," she said. "Perhaps the developer could lower his prices or build smaller houses."

With no others indicating a wish to address the matter, the public hearing was closed.

Commissioner Lyle asked how wide the "v" ditch is? Mr. McDaniel responded it is 3-feet wide and 2-feet deep.

Commissioner Weston expressed concern about interference with the "v" ditch as it provides drainage capabilities.

Commissioners and staff discussed the fences in the back yards, the route and distance of the "v" ditch.

Commissioner Mueller suggested a list of uses for the for the ~~"v" ditch be formulated~~ *open space easement be formulated*.

PM Rowe said that when trying to define alternative uses, difficulty begins.

Commissioner Weston said that when talking about any activity with the "v" ditch, civil engineering will be involved.

Commissioner Mueller recommended talking about remedies for the situation.

PM Rowe said that suggestions have been made that the developer could reduce prices, offer discounts, etc., as others have been doing in order to move properties. He also reminded that the 40-foot movement requested will cause the properties to go deep into the 20% slope. PM Rowe continued by giving an overview of the lots and distances to the ditch.

Chair Acevedo commented that a year ago the Commissioners had developers before them asking to 'shrink' the sizes of houses because of the economic environment, and this developer/applicant knew those conditions, too. "I'm inclined to leave it alone," he said. "These are big houses on big lots with small usable area and the developer and the buyers know that."

Commissioner Lyle said he was happy to see residents of Spring Ave. area present because

**PLANNING COMMISSION MEETING MINUTES**

**JUNE 24, 2003**

**PAGE 5**

those residents had voiced much opposition originally. Commissioner Lyle returned to the fences, which were clarified as being visible, 'good neighbor' fences.

Commissioner Mueller spoke on issues regarding the retaining wall.

**CHAIR ACEVEDO OFFERED RESOLUTION NO. 03-54, RECOMMENDING DENIAL OF AN AMENDMENT TO THE OPEN SPACE EASEMENT LIMITATIONS WITHIN THE PRECISE DEVELOPMENT PLAN FOR THE SPRING MANOR RESIDENTIAL PLANNED DEVELOPMENT. THE MOTION WAS SECONDED BY COMMISSIONER LYLE AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, ENGLES, ESCOBAR, LYLE, WESTON; NOES: MUELLER; ABSTAIN: NONE; ABSENT: BENICH.**

**3) VAR-03-01:  
MONTEREY-  
MORENO**

A request for approval of a Variance to allow a zero-foot rear yard setback from the required 20-foot rear yard setback for a proposed building on a vacant 14,100 sq. ft. located on the west side of Monterey Road, approximately 90 ft. south of Cosmo Avenue. The site is located in the General Commercial (CG) zoning district.

The parking would be at the front of the building, PM Rowe stated in his report to the Commissioners, and the parking lot would be connected to an adjacent lot.

Commissioner Weston brought up the fact that this request is due to 'special circumstance' in that the property is 'severely limited' being 'almost industrial'. He discussed the need for a second exit for the current /proposed use.

PM Rowe disclosed that the applicant has discussed the exit(s) limitations and is working with the Code Enforcement officials. As to the parking issues, he told Commissioners that Commissioner Lyle has expressed concern regarding the number of compact (parking) spaces and noticed the location of the trash enclosure. PM Rowe explained the allowances for the parking encroaching into the landscaping. He then reminded that the site plan is not before the Commissioners at this time and directed the discussion back to the variance request.

Chair Acevedo opened the public hearing.

Bill McClintock, PO Box 1029, offered to answer questions as the applicant was not present.

Commissioner Lyle asked how will 'work arounds' be made to provide an adequate number of access sites into the building, including fire exits? Mr. McClintock responded that there are plans to combine the units, as well as perhaps providing a reduced number of units.

Commissioner Mueller said only the setbacks should be discussed now.

Mr. McClintock commented that it would benefit the City to get the existing wall covered.

Commissioner Mueller said the town will miss the large Eucalyptus tree that has been there 'forever'.

# PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 6

Mr. McClintock explained the plan to replace the tree with a 'huge Redwood in a planter' which is more in keeping with the use of the property.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

**COMMISSIONER WESTON MOVED TO APPROVE RESOLUTION NO. 03-55, APPROVING A TWENTY FOOT VARIANCE FROM THE MINIMUM REAR YARD SETBACKS FOR A PROPOSED 4,240 SQ. FT. BUILDING LOCATED IN THE GENERAL COMMERCIAL ZONING DISTRICT, INCLUDING THE FINDINGS AND CONDITIONS, TOGETHER WITH THE FOLLOWING MODIFICATIONS:**

**1) UNIT 1 AND PARTS OF UNIT 2 BE ARCHITECTURALLY DESIGNED**

**2) THE BOX TREE BE 48-INCHES, RATHER THAN 24 INCHES**

**COMMISSIONER LYLE SECONDED THE MOTION.**

Commissioner Mueller said he has no problem with the modifications, but would add a definition to the findings: The 'uniqueness' of the existing building on the lot line is that it was built with future expansion in mind, having been built in the 1970s. He said he was suggesting this on information received in public testimony. Mr. McClintock affirmed the statement by informing he was the Engineer of record on the original building.

Commissioner Escobar agreed it was important to include this language in the findings.

Commissioner Mueller continued that the original building was built on a zero lot line as another building was envisioned to share the wall.

**COMMISSIONERS WESTON AND LYLE ACCEPTED THE MODIFICATION TO THE FINDINGS. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH WAS ABSENT.**

## **4) ZA-03-06: TEXT AMEND- MENT/MOBILE HOME CONVERSIONS**

A request for zoning amendment to Title 18 of the Municipal Code, specifically Sections 18.30.010, 18.30.050 and 18.30.110 of Chapter 18.30 (PUD, Planned Unit Development District), to be consistent with the City's new Mobile Home Conversion Ordinance.

PM Rowe gave the staff report, explaining several changes to the ordinance even though the ordinance was not being consider at this meeting. Several numbering changes/ corrections were noted [revised and corrected document on file in the City of Morgan Hill Planning Department].

Commissioner Mueller asked why the City would want to have this in the PUD category as opposed to an RPD which seemed better suited? PM Rowe explained that the City Attorney and the Community Development Director had been working together with the Rent Control Commission for clarifying language in the Ordinance. He pointed out specifically Exhibit 1A, explaining that it was agreed upon. Commissioner Mueller continued, arguing that the RPD was better satisfied for the goal of the City.

Discussion ensued whereby other developments were named as being examples of types of PUDs and RPDs.

Chair Acevedo opened the public hearing.

Mark Moore, 575 San Pedro, # 19, said he was speaking on behalf of the Rent Commission, as they had designated him to address the issue. Mr. Moore said this

## PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 7

Ordinance has been in process for over two years. He presented an overview of the thinking of utilizing a PUD rather than an RPD, but said he clearly understood and agreed with Commissioner Mueller's reasoning.

Mr. Moore told Commissioners how the decision for utilizing an Ordinance to deal with the potential conversion of mobile home parks came into being, and noting that the emphasis is on helping residents of the City who might be displaced. Mr. Moore said by following the examples of other municipalities in the area, the Ordinance had been pieced together. He and PM Rowe stressed that no imminent changes are anticipated, but this Ordinance is preparatory – and offers help for the City leaders if conversions take place leading residents to come to City Hall for relief and assistance. Also discussed was the number of existing mobile home parks in the City and the potential for conversion(s).

Commissioner Lyle expressed concern that the expense of relocating residents might become prohibitive, adding that there seems to be a need to limit the amount of liability to the mobile home park owner.

Mr. Moore said that the relocation costs are negotiable. "Hopefully, this will be an adventure the City won't have, but we will be prepared," he said.

With no other persons appearing to address the matter, the public hearing was closed.

Chair Acevedo commented that this would add a provision of reasonableness to the affordable housing in the City.

**COMMISSIONER WESTON OFFERED REVISED AND CORRECTED (NUMBERS IN SECTIONS 2 AND 3) RESOLUTION 03-56, RECOMMENDING APPROVAL OF AMENDMENTS TO SECTIONS 18.30.010, 18.30.050, AND 18.30.110 OF CHAPTER 18.30 (PUD PLANNED UNIT DEVELOPMENT DISTRICT) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING AMENDMENT FOR CONSISTENCY WITH MOBILE HOME CONVERSION ORDINANCE. THE MOTION WAS SECONDED BY COMMISSIONER LYLE.**

Commissioner Mueller pointed out that Section 18.30.20 lists permitted ~~used~~ *uses* in a PUD, noting that it effectively puts a PUD overlay on residential uses, and saying that he was concerned about the effects of that language. "This basically throws out all development standards. That concerns me. It sets expectations that these conversions would not have to go through a General Plan change," Commissioner Mueller said. "For example, there is a big mobile home park near the new high school. The language in this really sets up loopholes for PUDs." He asked others to look at 18.003.20, which reads ~~that all uses must be consistent with the General Plan 18.30.020, which reads that all uses may be permitted in a PUD. There is no requirement that the uses be consistent with the General Plan.~~

Commissioner Escobar asked if there is urgency in passing the Resolution at this meeting, or could further study be done?

Mr. Moore said a month or two should not make a difference.

## PLANNING COMMISSION MEETING MINUTES

JUNE 24, 2003

PAGE 8

Commissioner Mueller said he thought that there were unintended consequences built in to the proposed Ordinance. He explained that a PUD overlay allows issues, items, and decisions to 'go on top of the General Plan, allowing numerous uses, and causing people to say, 'I can forget the ~~PUD~~ zoning code'. Commissioner Mueller stressed a need to really scrutinize the sections of the Ordinance which could bring difficulties in the future.

PM Rowe explained the reasoning of the City Attorney and CDD Bischoff in wanting the PUD language instead of an RPD reference.

Commissioner Mueller suggested a sharpening of the wording for the Ordinance, repeating that he sees 'big holes and somebody is going to go right through them'.

### **COMMISSIONER WESTON WITHDREW THE MOTION APPROVING RESOLUTION NO. 03-56.**

With the Resolution no longer on the table, **COMMISSIONER ESCOBAR MOVED TO CONTINUE THE MATTER TO THE JULY 22, 2003 MEETING OF THE PLANNING COMMISSION. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH WAS ABSENT.**

### **OTHER BUSINESS:**

#### **5) SELECTION OF CHAIR AND VICE-CHAIR**

Chair Acevedo led the discussion by directing attention to the City Council policy for selection of Chair and Vice-Chair.

**COMMISSIONERS LYLE/ESCOBAR NOMINATED/SECONDED COMMISSIONER MUELLER TO BE CHAIR OF THE PLANNING COMMISSION FOR THE ENSUING TERM. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH WAS ABSENT.**

Commissioner Weston noted that he is eligible to be Vice-Chair and would like to do so. Commissioner Lyle graciously agreed to step aside from eligibility at this time.

**CHAIR ACEVEDO/COMMISSIONER ENGLER NOMINATED/SECONDED COMMISSIONER WESTON TO BE VICE-CHAIR OF THE PLANNING COMMISSION FOR THE ENSUING TERM. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; BENICH WAS ABSENT.**

### **ANNOUNCEMENTS:**

PM Rowe announced that Commissioners Escobar, Engles, Lyle and Mueller had received the honor of being re-appointed to the Commission by the City Council.

As to Council action dealing with matters of interest to the Commission, all of the



**PLANNING COMMISSION MEETING MINUTES**

**JUNE 24, 2003**

**PAGE 9**

following items were approved: The McLaughlin-Jones Extension of Time; The Berkshire-Singh Extension of Time, and agreeing with the Commission that this is to be the final extension; Development Agreements for Cochrane-Mission Ranch and Church-South

County Housing; and the Zoning Amendment for Condit-Horizon Land/The Ford Store.

**ADJOURNMENT:**

There being no further business, Chair Acevedo adjourned the meeting at 9:35 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**